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Joint written statement* submitted by CIVICUS - World Alliance for Citizen Participation, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Rising restrictions on civil society which require the Human Rights Council's further attention*

Introduction

Civil society organizations (CSOs) play an essential role in the promotion and protection of human rights. They not only help ensure the representation of diverse voices in policy making but in many instances perform an essential watchdog function in the public sphere. Nevertheless, despite the recognition of the crucial importance of active involvement of civil society at all levels, the conditions in which civil society groups operate are becoming increasingly contested.

Sadly, despite mutually agreed upon commitments within a number of United Nations human rights conventions, declarations and resolutions, the promise of an enabling environment for civil society remains unfulfilled. Marginalisation of independent and vocal civil society groups, and the failure to protect them in the exercise of their rights, undermines international law and commitments made at multilateral forums.

As discussed below, the activities of civil society continue to be widely curbed through: i) worsening policy and legal environment for civil society; ii) dissolution of civil society groups without justification; and iii) judicial persecution of civil society members.

1. Rise in legislative restrictions on civil society

Across the globe, a growing number of governments have sought to utilise legislative tools to control and suppress the activities of civil society groups. Trends include the adoption and consideration of NGO framework laws which impose severe practical limitations on the ability of civil society groups to undertake their legitimate activities. Among other issues, many of these legislative developments jeopardise the flow of foreign funding to domestic CSOs, provide the government with excessive discretionary powers to restrict CSOs from working on certain sensitive areas and permit authorities to arbitrarily and subjectively close down organisations without judicial oversight.

In Azerbaijan, in February 2014, several restrictive amendments have been made to the NGO Law to increase bureaucratic controls. The amendments require NGOs to re-register every three months with the Ministry of Justice, creating increased uncertainty for the sector. Furthermore, the amendments impose undue fines on the leadership of NGOs for failing to submit information or for submitting "false information."[1]

On 7 January 2014, Nigeria approved the Same Sex Marriage (Prohibition) Act, which bans the registration of any gay club, society or organisation and threatens its supporters with imprisonment of up to ten years. The Nigerian law is broad enough to criminalise the entire community of human-rights activists and organisations, firmly opposed to any discrimination against sexual minorities and LGBTI individuals.[2]

Another worrying development is the passing of the Law on Mass Organisations (ORMAS Law) in Indonesia by the House of Representatives in July 2013. The ORMAS Law suffers from the following defects: it bars CSOs from propagating ideology that conflicts with 'Pancasila' - the principles of official State philosophy of Indonesia – thereby

[1]Civil Society Groups Call On Azerbaijan's President Not To Sign Restrictive Law , CIVICUS, 27 January 2014, http://civicus.org/news-and-resources-127/1954-civil-society-groups-call-on-azerbaijan-s-president-not-to-sign-restrictive-law
[2]Nigeria: Anti-LGBT Law Threatens Basic Rights undertaking 'illegal religious activities', Human Rights Watch, 14 January 2014, http://www.hrw.org/news/2014/01/14/nigeria-anti-lgbt-law-threatens-basic-rights

providing government officials with a powerful tool to silence organisations that oppose official policy. The law also prevents CSOs from undertaking activities falling within the purview of law enforcement agencies and government.[3]

As we speak, Zambian NGOs are being pressured to register under the restrictive 2009 NGO Law. The law contains a number of debilitating restrictions on civil society including: arbitrary registration requirements endowing excessive discretion to government officials to deny registration to NGOs; provisions that allow undue executive interference into the activities of NGOs and curb their independence; and imposition of a forced self-regulatory framework on NGOs in breach of international best practices.[4]

2. Moves to forcibly shut down civil society organisations without justification

CIVICUS has observed that a number of civil society organisations have been subjected to arbitrary and punitive acts, which States have attempted to justify through vague appeals to the notions of transparency and accountability. A number of governments have been forcibly dissolving and deregistering CSOs to prevent them from engaging with their constituency on sensitive areas under the guise of making the civil society sector more accountable. Such acts violate international norms protecting the right to free association and severely undermine governments' obligation to positively engage with the broad spectrum of civil society. Moreover, States have disproportionately targeted civil society groups that engage in advocacy and report on politically sensitive issues.

In Malaysia, in January 2014, the Coalition of NGOs (COMANGO), which was established to engage in the UN UPR process, was declared unlawful, purportedly for being in violation of religious tenets for work which included support for LGBTI individuals. The coalition had been under pressure since October 2013, when it participated in the review of Malaysia's human-rights record at the United Nations Human Rights Council.[5]

In Ecuador, the Pachamama Foundation, a well-known organisation supporting the environment and indigenous people's rights, was 'dissolved' on 4 December 2013 on allegations that its members had participated in a violent protest.

In Ethiopia, as part of the government's apparent campaign to curtail support for and coverage of widespread protests by Muslim groups that began in early 2012 demanding autonomy in religious affairs, the Ethiopian Charities and Societies Agency revoked the licences of three CSOs engaged in religious affairs. The organisations, including One Euro, the Islamic Cultural and Research Centre and Gohe Child, Youth and Women Development were forced to discontinue their work for supposedly contravening provisions of the 2009 Charities and Societies Proclamation (CSO Proclamation) in February 2013.[6]

3. Judicial harassment and imprisonment of civil society members to suppress their legitimate work

A number of governments have imprisoned civil society activists to prevent them from carrying out their legitimate work. Despite the recent landmark UNHRC resolution on "Protecting Human Rights Defenders," harassment of civil society watchdog groups for exposing government corruption and wrongdoing remains rife.

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[3] Indonesia NGO Law a setback for freedom of association, CIVICUS, 18 August 2013 https://civicus.org/media-centre-129/press-releases/1822-indonesian-ngo-law-a-setback-for-freedom-of-association

[4] Support, not undermine Zambian Civil Society, CIVICUS, 10 January 2014 http://civicus.org/media-centre-129/press-releases/1949-support-not-undermine-zambian-civil-society

[5] Malaysia: Coalition of Malaysian NGOs COMANGO declared an "unlawful organisation, FIDH, 14 January 2014, http://www.fidh.org/en/asia/malaysia/14468-malaysia-coalition-of-malaysian-ngos-comango-declared-an-unlawful

[6] Global body speaks out against suppression of Ethiopian media and Civil Society, CIVICUS, 19 March 2013, http://www.civicus.org/media-centre-129/press-releases/1503-global-body-speaks-out-against-suppression-of-ethiopian-media-and civil-society

In Egypt, emboldened by a new anti-protest law, he "Law on the Right to Public Meetings, Processions and Peaceful Demonstrations (Law 107 of 2013)" activists belonging to the No Military Trials for Civilians movement were convicted on 5 January 2014 on trumped-up charges, from arson to endangering public safety.[7]

Adilur Rahman Khan, one Bangladesh's most prominent human rights defenders and the Secretary of civil society group, Odhikar, was arrested on 10 August 2013 and held for nearly two months in prison. Mr Khan is being accused of violating the Information and Communication Technology Act for the publication of a fact finding mission report by Odhikar on the alleged killing of 61 people by Bangladeshi security forces in May 2013.[8]

In Saudi Arabia, amid a growing clampdown on independent civil society activists, on 9 March 2013 two Saudi civil society activists and co-founders of the Saudi Association for Civil and Political Rights (ACPRA), Mohammad Al Qahtani and Abdullah Al Hamid, were sentenced to 10 and 11 years in prison on charges that included "breaking allegiance to the King", "disseminating false information through foreign entities" and "forming an unlicensed organisation."[9]

Nabeel Rajab, president of the Bahrain Centre for Human Rights (BCHR) and Director of the Gulf Centre for Human Rights, is currently serving a three-year sentence for his role in the Bahrain peoples' uprising which began in February 2011. Mr Rajab has been a vocal critic of the Bahraini government's continued repression of civil and political rights in the country and has championed a number of human rights causes through his work as co-founder and president of BCHR.[10]

Recommendations

- There is an urgent need to better articulate the extent of civil society rights under international law. The UN Declaration on Human Rights Defenders contains an exhaustive list of rights of civil society members. The UN Human Rights Committee has a well- defined general comment on freedom of expression. The UN Special Rapporteur on Peaceful Assembly and Association has collated a list of best practices on the rights under his mandate. A number of regional international courts have also made a number of well- considered decisions on civil society rights. It is perhaps time for the international community to begin a conversation on the need to adopt a UN Convention on Civil Society Space that clearly codifies protections for civil society articulated in the above-mentioned documents.

- There is an urgent need for all UN member states to unequivocally condemn attacks on civil society activists and any restrictions on civil society rights in law and policy by any government including those considered to be their political and strategic partners. Moreover, the space for civil society is closely linked to the democratic deficit being experienced in many parts of the world. It is crucial that the international community focus on the entrenchment of participatory democracy at all levels.

- The work of UN Special Rapporteurs must be supported. All governments must be encouraged to extend open invitations to Special Procedures Mandate Holders including the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

- The establishment of a Working Group on Freedom of Association to deliberate on issues of a general nature in order to assist States to prevent and guard against the practice of unwarranted restrictions on freedom of

[7] Civil Society Groups Condemn Attacks on Freedoms in Egypt, CIVICUS, 10 December 2013, http://civicus.org/media-centre-129/press-releases/1941-civil-society-groups-condemn-attacks-on-freedoms-in-egypt
[8] CIVIL Society Behind Bars, Adilur Rahman Khan, CIVUCS, 12 August 2013, http://civicus.org/csbb/1823-adilur-rahman-khan
[9] Civil Society Behind Bars: Mohammad Al Qahtani and Abdullah Al Hamid, CIVICUS, 16 July 2013, http://civicus.org/dr-mohammed-al-qahtani-and-dr-abdullah-al-hamid
[10] Take Action: Nabeel Rajab, CIVICUS, 13 June 2012, http://civicus.org/nabeel-rajab

association and to facilitate consideration of future cases should be considered.

- The international community must clearly incorporate space for civil society as an essential element of the post 2015 sustainable development agenda. Essential this means including a specific target and indicator(s) to promote an enabling environment for civil society; linking the target and indicator(s) to an analogue to the current MDG 8 focusing on partnerships for development; and making an enabling environment for civil society a cross-cutting element across many goals.

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*World Movement for Democracy (WMD) NGO(s) without consultative status, also share the views expressed in this statement.